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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/587,197	06/05/2000	Jack O. Cartner	CRT 2 0017	8327

7590 11/06/2003

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EXAMINER

PETRAVICK, MEREDITH C

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/587,197

Applicant(s)

CARTNER, JACK O.

Examiner

Meredith C Petravick

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,7,11,13,17,19,38-40 and 61-73 is/are pending in the application.

4a) Of the above claim(s) ____ is/are withdrawn from consideration.

- 5) ☐ Claim(s) ____ is/are allowed.

- 6) ☒ Claim(s) 2,3,7,11,13,17,19,38-40 and 61-73 is/are rejected.

- 7) ☐ Claim(s) ____ is/are objected to.

- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7, 11, 13, 17, 61-62, 65-66, 68-69 and 73 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobey 3,496,707

Kobey discloses a mower including:

- a deck (20) with at least four sides with at least three rigid side walls (40)
- at least one cutting blade (24)
- a guard (34)

The guard is attached via a hinge (42) between two sidewalls. The guard extends at obtuse angles from the sidewalls (Figure 1). The guard has two discrete segments that are angled from each other by ninety degrees (Fig. 2).

In regards to claim 61, the horizontal plane of the deck is coplanar with a horizontal plane of the guard (Fig. 3).

In regards to claims 7, 63, 66 and 69, an actuating member (52) is mounted on the deck and on the guard away from the hinge.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaguard et al. 5,657,620.

Kobey discloses the invention described above. However, Kobey uses a manually operated cable to open and close the guard instead of a hydraulic cylinder and piston assembly.

Like Kobey, Thaguard et al. discloses a guard on a mower deck, which opens and closes. Unlike Kobey, Thaguard et al. teaches providing a hydraulic cylinder and piston (182) for opening and closing the guard. Thaguard et al. teaches that this is one particularly preferred method (Column 6, lines 53-60).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the cable actuator of Kobey with a hydraulic cylinder and piston actuator, in order to facilitate operator ease.

5. Claims 3, 38-40, 63-64, 67, 70-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaguard et al.

Kobey discloses the invention described above. However, Kobey has a rigid sidewall on the guard instead of a flap.

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Like Kobey, Thaguard et al. discloses a guard on a mower deck with a sidewall. Unlike Kobey, Thaguard et al. teaches making the sidewall a folding one-piece flap (Column 8, lines 33-44). The flap is spaced from a plane of the guard. Thaguard et al. teaches that this exposes the blade for cutting.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sidewall of the guard in Kobey, a flap as in Thaguard et al., in order to increase cutting efficiency by increasing exposure of the blade.

6. Claim 72 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kobey in view of the MoTrim Boom Mower Brochure, cited by applicant.

Kobey discloses the claimed deck and guard assembly detailed above. However, the mower in Kobey is a push mower instead of a boom mower.

Like Kobey, the MoTrim Boom Mower Brochure discloses a mower head with a guard used to cut brush. Unlike Kobey, the mower deck and guard assembly is attached to a boom.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to alternately attach the mower deck and guard assembly of Kobey to a boom as in the Mo Trim Boom Mower Brochure, as one commonly know equivalent alternative means of moving a mower.

Response to Arguments

7. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

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The claims are now rejected based on the Kobey reference.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith Petravick whose telephone number is 703-305-0047.

The examiner can normally be reached on Monday-Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-308-1113. The fax number for this Group is 703-872-9306.



**Meredith Petravick
Patent Examiner
Group Art Unit 3671**

MCP
November 2, 2003